

REMARKS

The Office Action dated November 24, 2009 concluded as follows for the subject application:

- Claim 12 is objected to because there is a typographical error in the word “MIDI--track”; and
- Claims 2-19, 21 and 23-25 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and
- Claims 30-31 are rejected under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph because the claimed invention is not supported by either a useful and tangible asserted utility or a well established utility; and
- Claims 1-7, 10-11, 13-22, 24, 26 and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagasawa (US Pat. 6707908, hereinafter Nagasawa); and
- Claims 9, 23 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasawa in view of Hayashi (US Pub. 2001/0024965, hereinafter Hayashi).

These rejections are respectfully disagreed with, and are traversed below.

Claim 12 has been amended to correct a typographical error and to address the claim objection.

Claims 2-19, 21, and 23-25 have been amended to address the rejection under 35 U.S.C. 112, second paragraph.

Claims 30 and 31 have been amended to address the rejection under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph. Support for the amendments can be found at least on page 4, lines 20-29 of the Application.

Independent claims 1, 20, 22, 26, 28, 29, 30, and 31 have been amended with clarifying amendments which state “where the replacement musical sequence is played as a conclusion of the musical audible alert”. Support for the amendments can at least be found on page 7,

lines 11-20 and in figure 3A. Also, independent claims 1, 20, 22, 26, and 30 have been further amended with clarifying amendments to state “in response to the user input or after the musical audible alert has been playing for more than a predetermined threshold duration”. Support for these amendments can be found at least at page 5, lines 19-24.

Nagasawa does not suggest or disclose independent claims 1, 20, 22, 26, 28, 29, 30 and 31 as now amended. Nagasawa discloses the telephone terminal device that stores melodies and that has the ability to reproduce the melodies. Nowhere in the disclosure in Nagasawa does it suggest the independent claims as currently amended. The melodies in Nagasawa do not read on “replacement musical sequence is played as a conclusion of the musical audible alert” nor “in response to the user input or after the musical audible alert has been playing for more than a predetermined threshold duration” as stated in claim 1. Additionally, Hayashi does not cure this shortfall. Neither Nagasawa nor Hayshi individually or in combination render obvious the independent claims as now amended. Claims 1, 20, 22, 26, 28, 29, 30, and 31 are in condition for allowance.

With regards to claim 1, the Examiner asserts that Nagasawa discloses, “a controller, responsive to the user input, configured to control the audio output section to terminate the musical audible alert while the musical audible alert is being played by introducing and playing a replacement musical sequence” (Fig. 1, ref 3, Col. 4: 14-29, the control part 3 comprising MPU or DSP for processing sound; wherein the control part can terminate the audible alert by playing the medley melodies, the plurality of pieces of music playing in sequences). However, this assertion is incorrect. Nagasawa states at col.4, lines 14-29;

The control part 3 comprises a coding/decoding part 4 for coding/decoding a transmitting signal and a receiving signal, a sound data processing part 5 corresponding to the sound data processing means for the data process for reproducing the melody data as the sound, a display content control part 6 for controlling the display content on the display part 15, a melody memory selecting part 7 for selecting the melody memory in the memory part 12, a data reading/writing part 8 for reading and writing data

with respect to the melody memory, and a medley editing and reproducing part 9 corresponding to the medley editing and reproducing means for the data process for editing a plurality of melody data for the reproduction as a medley. The control part 3 is realized according to the functional configuration to be operated by the MPU or DSP based on a control program stored in a memory medium such as a memory.

As is evident from the disclosure above, Nagasawa does not suggest nor disclose, “terminates the playing of the musical audible alert while it is being played by introducing and playing a replacement musical sequence” as recited in claim 1. Nagasawa merely discloses a control part 3 comprising MPU or DSP for processing sound. (col. 4, lines 26-29, Nagasawa) This is not analogous to “terminates...by introducing and playing a replacement musical sequence” as claim 1 recites. Additionally, having “a medley editing and reproducing part 9 corresponding to the medley editing and reproducing means for the data process for editing a plurality of melody data” does not cure this shortcoming. (col. 4, lines 23-25, Nagasawa) Furthermore, even if for arguments sake Nagasawa disclosed the ability to terminate audible alerts, which it is not admitted is the case, it still falls short because it does not suggest or disclose “playing a replacement musical sequence” as claim 1 recites. The disclosure in Nagasawa does not anticipate “terminates the musical audible alert while it is being played by playing a replacement musical sequence” as recited in claim 1.

For these reasons Nagasawa cannot anticipate claim 1 under 35 U.S.C. 102(e) since for a rejection to be made on the basis of anticipation it is well recognized that all material elements in a claim must be found in one unit of prior art. Clearly, all material elements found in independent claim 1 are not found in Nagasawa and thus independent claim 31 is allowable over Nagasawa.

Independent claims 20, 22, 26, 30, and 31 recite similar subject matter to that found in claim 1. For the reasons stated above with respect to claim 1, Nagasawa also cannot anticipate independent claims 20, 22, 26, 30, and 31. These claims are therefore in condition for allowance.

With regards to claim 28, the Examiner asserts that Nagasawa discloses, “a controller, responsive to the user input, configured to control the audio output section to terminate the musical audible alert while the musical audible alert is being played by introducing and playing a replacement musical sequence” (Fig. 1, ref 3, Col. 4: 14-29, the control part 3 comprising MPU or DSP for processing sound; wherein the control part can terminate the audible alert by playing the medley melodies, the plurality of pieces of music playing in sequences).

The Applicant respectfully disagrees with the Examiner’s characterization of the teachings of Nagasawa and Hayashi.

It should be noted that the Examiner has incorrectly quoted the language of claim 28 in the Final Office Action dated 11/24/2009. However, it is assumed that the Examiner cites to col. 4, lines 14-29 as supporting the assertion that Nagasawa discloses, “a memory storing a plurality of data files each of which comprises a replacement musical sequence for terminating an electronic device musical audible alert while the musical audible alert is being played at the electronic device” as claim 28 recites. However, this assertion is incorrect. As is evident from the disclosure above, Nagasawa does not suggest or disclose, “terminate the musical audible alert while the musical audible alert is being played by introducing and playing a replacement musical sequence” as recited in claim 28. Having a “control part 3 is realized according to the functional configuration to be operated by the MPU” is not analogous to “a replacement musical sequence for terminating an electronic device musical audible alert while the musical audible alert is being played” as claim 28 recites. Additionally, having the a “medley editing and reproducing part 9 corresponding to the medley editing and reproducing means for the data process for editing a plurality of melody data” does not cure this shortcoming (col. 4, lines 23-25, Nagasawa). Furthermore, even if for arguments sake Nagasawa disclosed the ability to terminate audible alerts, which is not admitted, it still falls short because it does not suggest nor disclose “playing a replacement musical sequence” as claim 28 recites. The disclosure in Nagasawa does not anticipate “a replacement musical sequence for terminating an electronic device musical audible alert

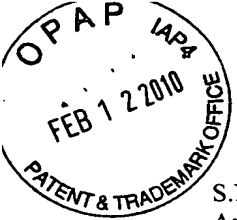
while the musical audible alert is being played” as recited in claim 28. Further, Hayashi is not able to cure the above shortfall. Hayashi merely discloses “a mobile communication terminal and its ringing method capable of setting downloaded tone information as an incoming ring tone and a tone for notifying reception of an e-mail without being limited by memory capacity.” ([0006]) Hayashi does not suggest or disclose “replacement musical sequence for terminating an electronic device musical audible alert” as claim 28 states. As such, the proposed combination of Nagasawa and Hayashi does not suggest or render unpatentable claim 28. Therefore, claim 28 is in condition for allowance.

Independent claim 29 recites subject matter similar to that of claim 28. For the reasons stated above with respect to claim 28, neither Nagasawa nor Hayashi individually or in combination render obvious independent claim 29. This claim is in condition for allowance.

It should be noted that the Examiner does not cite to any references regarding “conditional branching markers” as recited in independent claims 26 and 29. However, the Examiner does cite to Mizuno as rendering obvious “conditional branch markers” with regards to claims 8 and 25. The Examiner asserts that Figures 3(a-b) and paragraph [0058] in Mizuno teach “conditional branch markers” as stated in claims 8 and 25. However, Mizuno merely discloses in Figures 3(a-b) “tables showing structural examples of timbre banks in tone generators”. ([0018]) As is evident, Mizuno simply teaches a table with a number of different tones that can be played.

Furthermore, in that all of the independent claims are clearly allowable over the disclosures of Nagasawa and Hayashi, then all claims that depend from these independent claims are also allowable over Nagasawa and Hayashi.

The Examiner is respectfully requested to reconsider and remove the rejections of the claims under 35 U.S.C. 101, 35 U.S.C. 112, second paragraph, 35 U.S.C. 102(e) and 35 U.S.C. 103(a), and to allow all of the pending claims as now presented for examination. An early notification of the allowability of claims is earnestly solicited.



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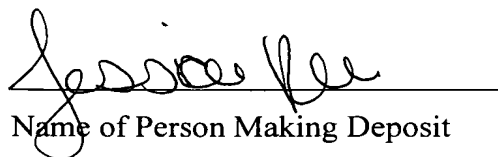
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2.5.2010
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